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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/519,847 | 03/06/2000 | Pierre Ripoché | Q58134 | 8169 |

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EXAMINER

HOFFMANN, JOHN M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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1731

25

DATE MAILED: 04/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/519,847

Applicant(s)

RIPOCHE ET AL.

Examiner

John Hoffmann

Art Unit

1731

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE REPLY FILED 07 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): the 35 USC 112 rejection.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-3Claim(s) withdrawn from consideration: 4

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

John Hoffmann
Primary Examiner
Art Unit: 1731

4-15-03
4-15-03

Continuation of 5. does NOT place the application in condition for allowance because: It is argued that JP'028 has multiple sets of heating/injecting means and that each heating means is not adjusted relative to its neighboring injecting means. This is true and irrelevant, because the claims do not preclude the claimed heating means from also having an associated injecting means which is not adjusted: the JP '028 heating means have two associated injecting means - one is adjusted and the other is not. As to JP '028 not having applicant's benefit - Examiner is not certain this is true - however, since the claims do not require the benefit, the prior art need not have the benefit. As to the argument that JP'028 means are not associated in the same manner that Applicant's invention is, such is irrelevant because the present claims are not limited to the disclosed "association". Since JP'028 means are all associated into one apparatus as claimed, the claim language is met. Limitations in the specification are not read into the claims. It is further argued that injecting means 17 does not inject silica in the heating area created by heating means 19. AS indicated in the previous Office action, the Office is interpreting the heating area to be the entire preform - because it is an area which is heated. The arguments regarding area ABCD are not convincing for the reasons given in prior communication(s). The fact that Applicant is referring to only ABCD is irrelevant as to whether the claims are limited to only ABCD. Since the disclosure lacks any specific definition for "heating area" the broadest reasonable interpretation is used therefore.